



California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair



Linda S. Adams
Acting Secretary for
Environmental Protection

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114
(916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

15 June 2011

CERTIFIED MAIL

Jeffory J. Scharff, Esq.
2625 Fair Oaks Blvd., Suite 7
Sacramento, CA 95864

REVISED IMPORTANT DEADLINES, ACL R5-2008-0518-R, WINEMUCCA TRADING
COMPANY, LTD

Mr. Scharff,

The Central Valley Water Board's Prosecution Team has neither heard from you nor your client following the revision of the Hearing Procedure's Important Deadlines. The revision was proposed by the Prosecution Team following your client's failure to respond by the revised subpoena deadline, and has been accepted by the Board's Advisory Team.

At this point, the Board's Prosecution Team is re-sending the documents to both you and your client via certified mail. We are also enclosing a copy of the Prosecution Team's Evidence and Witness Lists, which were delivered, as per the revised Important Deadlines, by 5pm on 14 June 2011 to Mr. Alex Mayer and Mr. Ken Landau.

I am also enclosing a copy of the e-mail transmittal by Alex Mayer which approved the revised deadlines.

Yours,

Patrick Pulupa
Staff Counsel, Central Valley Water Board Prosecution Team

Enclosure(s):

- Original Hearing Procedures
- Hearing Procedures Revised Deadlines, sent 6 June 2011
- Approval E-Mail
- Prosecution Team's Witness List
- Prosecution Team's Evidence List

California Environmental Protection Agency



cc [via email]: Mr. Robert Crandall, Central Valley Water Board, Redding Office
Mr. Clint Snyder, Central Valley Water Board, Redding Office
Mr. Dale Stultz, Central Valley Water Board, Redding Office
Mr. Kenneth Landau, Central Valley Water Board, Rancho Cordova Office
Mr. Alex Mayer, State Water Board, Office of Chief Counsel

cc: Mr. Jim Smith, Shasta County Department of Resource Management
1855 Placer St # 200, Redding, CA 96001-1759
Mr. Michael Sommers, Winemucca Trading Company Limited, Inc.
P.O. Box 4261, Incline Village, NV 89450

Central Valley Regional Water Quality Control Board

HEARING PROCEDURE
FOR REISSUED ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2008-0518-R

ISSUED TO
WINEMUCCA TRADING COMPANY LIMITED

FORMER SHASTA PAPER COMPANY FACILITIES AND PROPERTIES:
SHASTA PULP AND PAPER MILL
WASTEWATER TREATMENT LAGOONS
SHASTA COUNTY

SCHEDULED FOR 8/9/10 JUNE 2011

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Assistant Executive Officer has issued an Administrative Civil Liability ("ACL") Complaint pursuant to Water Code section 13323 to Winemucca Trading Company Limited, alleging violations of Water Code section 13350 by its failure to comply with Cleanup and Abatement Order R5-2004-0717.

The Complaint proposes that an administrative civil liability in the amount of **four hundred eighty-seven, eight hundred and ninety-three dollars (\$487,893)** be imposed. A hearing is currently scheduled to be conducted before the Central Valley Water Board during its 8/9/10 June 2011 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

http://www.waterboards.ca.gov/centralvalley/board_info/meetings.

Hearing Procedures

The hearing will be conducted in accordance with this Hearing Procedure. This Hearing Procedure has been proposed by the Central Valley Water Board's Prosecution Team, and will become final on 15 April 2011 if no objections are received. This Hearing Procedure is subject to further revision by the Central Valley Water Board's Advisory Team or the Chair. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648, subdivision (b) and herein, Chapter 5 of the Administrative Procedures Act (commencing with Gov't Code § 11500) does not apply to this hearing.

ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 15 APRIL 2011, OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

The Discharger shall contact the Prosecution Team to try to resolve objections regarding due dates, the hearing date and hearing time limits BEFORE submitting objections to the Advisory Team.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Central Valley Water Board.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Winemucca Trading Company Limited

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received no later than 5 p.m. on the date listed under Important Deadlines, below, by the Advisory Team attorney (contact information listed below). The request shall include an explanation of the basis for status as a designated party (i.e., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person, and the need to present evidence or cross-examine witnesses), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all other parties by 5 p.m. on the date listed under Important Deadlines, below. The parties will be notified by 5 p.m. on the date listed under Important Deadlines, below, whether the request has been granted or denied.

Primary Contacts**Advisory Team:**

Kenneth Landau, Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670
Phone: (916) 464-4726
klandau@waterboards.ca.gov

Alex Mayer, Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5051; fax: (916) 341-5199
amayer@waterboards.ca.gov

Prosecution Team:

Pamela Creedon, Executive Officer
Robert Crandall, Assistant Executive Officer
Clint Snyder, Senior Engineering Geologist
Dale Stultz, Environmental Scientist
Central Valley Regional Water Quality Control Board
Phone: (530) 224-3213; fax: (530) 224-4857
415 Knollcrest Drive, Suite 100, Redding, CA 96002
csnyder@waterboards.ca.gov

Patrick Pulupa, Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5189; fax: (916) 341-5199
ppulupa@waterboards.ca.gov

Discharger:

Winemucca Trading Company Limited
Attn: Mr. Jeffrey Scharff, Esq. (Attorney for Discharger)
Scharff, Brady & Vinding
400 Capitol Mall Ste 2640, Sacramento, CA 95814
Phone: (916) 446-3400; fax: (916) 446-7159
sbv-law@scharff.us

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Mr. Kenneth Landau and Mr. Alex Mayer. Members of the Prosecution Team are: Ms. Pamela Creedon, Mr. Robert Crandall, Mr. Clint Snyder, Mr. Dale Stultz, and Mr. Patrick Pulupa. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Ms. Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

The following communications to the Advisory Board must be copied to all designated parties: Objections to these Hearing Procedures; requests for modifications to these Hearing Procedures; requests for designated party status, or objections thereto; and all written evidence, legal argument or policy statements from designated parties. This is not an all-inclusive list of ex parte communications.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined **60** minutes to present evidence (including evidence presented by witnesses called by the designated party), cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement.

Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received by 5:00 p.m. on the date listed under Important Deadlines, below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments or legal argument require extra time, and why the Discharger could not adequately provide the testimony, comments or legal argument in writing before the hearing.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence and Policy Statements

Case in Chief: The Prosecution Team, the Discharger and each other designated party must submit the following information in writing in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will generally not receive copies of materials incorporated by reference, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. (This information is not required for rebuttal witnesses or rebuttal testimony.)
4. The qualifications of each expert witness, if any. (This information is not required for rebuttal witnesses.)

The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list or attached copy of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the complaint or Staff Report; and the witness information required under items 3-4 for all witnesses, including staff. The Prosecution Team shall provide an electronic copy to Mr. Kenneth Landau and Mr. Alex Mayer of all documents cited in the complaint or Staff Report no later than the date listed under Important Deadlines, below.

The Prosecution Team shall submit one hard copy and one electronic copy to Mr. Kenneth Landau and one electronic copy to Mr. Alex Mayer. Each other designated party shall submit 3 hard copies and one electronic copy to Mr. Kenneth Landau and one electronic copy to Mr. Alex Mayer. All submissions must be received no later than 5:00 p.m. on the applicable due date listed under Important Deadlines, below.

Rebuttal: Any designated party that would like to submit written evidence, legal analysis or policy statements to rebut the information previously submitted by other designated parties shall submit 3 hard copies and one electronic copy of their rebuttal information to Mr. Kenneth Landau and one electronic copy of the information to Mr. Alex Mayer so that they are received by 5 p.m. on the due date under Important Deadlines, below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other designated parties' submissions. Rebuttal shall be limited to the scope of the materials previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

Copies: Board members will receive copies of all materials submitted in hard copy or electronic format. The Board's copies will be printed in black and white from the designated parties' electronic copies. Designated parties who are concerned about print quality of all or any part of their written materials should submit a high-resolution pdf or provide an extra nine paper copies for the Board members. For items with voluminous submissions, Board members may receive copies electronically only. Electronic copies are also posted on the Board's website.

Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy and mailing center. However, the Board will not reject materials solely for failure to provide electronic copies.

Other Matters: As described under the Important Deadlines, below, the Prosecution Team shall prepare a summary agenda sheet ("buff sheet") for this item to be included in the Board members' agenda package and posted on the internet. The buff sheet shall clearly state that it was prepared by the Prosecution Team. The Prosecution Team shall provide a copy of the buff sheet to all parties by mail or email.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the due date listed under Important Deadlines, below. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. Designated parties must

provide the Advisory Team with a printed copy of such materials at or before the hearing, for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 415 Knollcrest Drive, Suite 100, Redding, CA 96002. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at: http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml Although the web page is updated regularly, to assure access to the latest information, you may contact Mr. Clint Snyder (contact information above).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

All required submissions must be received by 5:00 p.m. on the due date.

- | | |
|------------------|---|
| 1 April 2011 | Prosecution Team Issues Revised ACL Complaint to Discharger and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice |
| 15 April 2011 | Objections due on proposed Hearing Procedure |
| 15 April 2011 | Deadline for submission of request for designated party status. |
| 20 April 2011 | Deadline for opposition to request for designated party status. |
| 20 April 2011 | Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above. |
| 22 April 2011 | Advisory Team issues decision on requests for designated party status, if any. |
| 10 May 2011 | Remaining Designated Parties' (including the Discharger's) deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above. |
| 10 May 2011 | Prosecution Team submits an electronic copy to Mr. Ken Landau and Mr. Alex Mayer of all documents cited in the complaint or Staff Report, unless previously submitted. |
| 16 May 2011 | All Designated Parties shall submit any rebuttal evidence, written rebuttal to legal argument and/or written rebuttal to policy statements; and all evidentiary objections to other Designated Parties' submittals. |
| 16 May 2011 | Requests for additional hearing time (see Hearing Time Limits, above). |
| 16 May 2011 | Interested persons' comments are due. |
| 16 May 2011 | Prosecution Team's deadline to submit Buff Sheet. |
| 8/9/10 June 2011 | Hearing |

IMPORTANT DEADLINES

All required submissions must be received by 5:00 p.m. on the due date.

1 April 2011	Prosecution Team issues Revised ACL Complaint to Discharger and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice <i>Complaint Issued, Public Notice Published</i>
15 April 2011	Objections due on proposed Hearing Procedure <i>Deadline Passed</i>
15 April 2011	Deadline for submission of request for designated party status. <i>Deadline Passed</i>
20 April 2011	Deadline for opposition to request for designated party status. <i>Deadline Passed</i>
20 April 2011 14 June 2011	Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above.
22 April 2011	Advisory Team issues decision on requests for designated party status, if any. <i>N/A</i>
10 May 2011 5 July 2011	Remaining Designated Parties' (including the Discharger's) deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above.
10 May 2011 5 July 2011	Prosecution Team submits an electronic copy to Mr. Ken Landau and Mr. Alex Mayer of all documents cited in the complaint or Staff Report, unless previously submitted.
16 May 2011 13 July 2011	All Designated Parties shall submit any rebuttal evidence, written rebuttal to legal argument and/or written rebuttal to policy statements; and all evidentiary objections to other Designated Parties' submittals.
16 May 2011 13 July 2011	Interested persons' comments are due.
16 May 2011 13 July 2011	Prosecution Team's deadline to submit Buff Sheet.
16 May 2011 13 July 2011	Requests for additional hearing time (see Hearing Time Limits, above).
8/9/10 June 2011 3/4/5 August 2011	Hearing

From: Alex Mayer
To: Pulupa, Patrick; Scharff, Jeffory
CC: Crandall, Robert; Landau, Ken; Snyder, Clint
Date: 6/13/2011 8:54 AM
Subject: Re: FW: Winemucca ACL

Given that settlement talks have apparently stalled, and that the Discharger has not provided a timely objection to the hearing schedule proposed by the Prosecution Team, the Advisory Team hereby approves the revised Hearing Procedures as proposed by the Prosecution Team on June 6, 2011.

Alex P. Mayer
Staff Counsel, Central Valley Regional Water Quality Control Board

>>> Patrick Pulupa 6/6/2011 5:54 PM >>>
Mr. Scharff,

The Board's Prosecution Team has heard nothing back from your client, even by the extended deadline of 2 May 2001. We now are proposing revised dates that would put the matter up for Board consideration at the August meeting.

Yours,

Patrick

Patrick Pulupa, Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I St., 22nd Floor
Sacramento, CA 95814
Phone: (916) 341-5189
Fax: (916) 341-5199

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>>> Alex Mayer 4/13/2011 4:24 PM >>>

Mr. Scharff and Mr. Pulupa,

The Advisory Team has reviewed Mr. Scharff's email dated April 11, 2011. Although the email was not circulated to the Prosecution Team, the Prosecution Team has reviewed it, responded to it, and views it as an informal motion to modify the deadline contained within the subpoena. In light of those facts, the Advisory Team will treat Mr. Scharff's April 11, 2011 email as an informal motion to modify the administrative subpoena issued by the Prosecution Team on April 1, 2011.

The Advisory Team finds that good cause exists to modify the deadline in the subpoena. Winemucca has alleged that it cannot produce all of the documents identified by the subpoena by April 18, 2011 because Mr. Mike Sommers is unavailable prior to April 18, 2011 and that much of the information identified by the subpoena is uniquely and solely within his possession, custody, and control. The Prosecution Team has concurred with the validity of this statement.

Finding that good cause exists, the Advisory Team will conditionally grant the motion to modify the subpoena on the condition that Winemucca Trading Company, Ltd. (Winemucca) submits to the Advisory Team, upon consultation with the Prosecution Team, a written waiver to the right to a hearing on the administrative civil liability complaint within 90 days after service of the complaint. See Water Code section 13323(b). In agreeing to such a waiver, Winemucca should explicitly reserve its ability to request a hearing in the future.

Upon satisfaction of this condition, the sentence beginning on line 3 of page 2 of the administrative subpoena is modified to read:
Winemucca Trading Company, Limited IS HEREBY COMMANDED to produce the papers, books, records, and documents in your possession or under your control described below in connection with the above-titled investigation by May 2, 2011, or any subsequent time approved in writing by the Prosecution Team.

The Prosecution Team is also directed work with Winemucca to issue new draft hearing procedures that include a hearing date scheduled for the Central Valley Water Board meeting to be held in August 2011.

Alex P. MayerStaff Counsel, Central Valley Regional Water Quality Control Board

>>> Patrick Pulupa 4/13/2011 1:30 PM >>>
Hi Alex and Ken,

Winemuccas representatives and the Prosecution Team consulted yesterday to try and resolve the issue of the April 18 timeline contained in the subpoena. It is the Prosecution Teams desire to move forward with a June Hearing, and if the April 18 date is pushed back, the Prosecution Team would need to re-schedule consideration of the ACL Complaint to the August Board meeting.

As it is the Prosecution Teams desire to bring this matter to the Board in June, we would prefer that the April 18 submittal date in the subpoena not be modified. However, we understand Winemucca to have a valid concern regarding the submittal date, and therefore, we suggested that Winemucca appeal to the Advisory Team to obtain your ruling on the extension of the April 18 deadline.

The Prosecution Team also interprets Mr. Scharffs e-mail to be an informal motion to quash or modify the subpoena, and we dont necessarily believe that any greater degree of formality is needed to make this motion (e-mail motions are fine by us).

Lastly, while the subpoena is a legally distinct matter from the ACL Hearing Procedure schedule, the two are intimately related. If the Prosecution Team does not receive a submittal from Winemucca by April 18, the Prosecution Team would not be able to meet our evidentiary deadline, which is April 20 (we anticipate including some of the submitted documents in our evidentiary submittal). So, if the Advisory Team moves the April 18 deadline, the Prosecution Team would work with Winemucca to revise the dates in the Hearing Procedure, and we would also presume that the Advisory Team would direct Winemucca to submit a waiver that would allow us to push the Hearing back to August as a condition of granting the extension of the April 18 deadline.

Thanks,

Patrick

Patrick Pulupa, Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I St., 22nd Floor
Sacramento, CA 95814
Phone: (916) 341-5189
Fax: (916) 341-5199

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>>> Alex Mayer 4/13/2011 1:05 PM >>>
Mr. Scharff,

The proposed hearing procedures for this proceeding stipulate that the Winemucca Trading Ltd. (the discharger) shall contact the Prosecution Team to try to resolve objections regarding due dates before submitting objections to the Advisory Team. If you have not already done so, I suggest you do. I did receive an email from you yesterday that referred to a conference call. If the April 18 deadline was discussed at the conference call yesterday and the parties resolved this issue, please indicate so to the Advisory Team.

The administrative subpoena issued to the discharger states that objections to the subpoena shall be in the form of a motion for a protective order, including a motion to quash. As indicated in the administrative subpoena, motions are to be sent to Mr. Kenneth Landau at the address provided. Since the Advisory Team has not received any such motions, it is not in a position to rule on the April 18 deadline.

I must add that it is unclear to the Advisory Team whether the discharger has waived its right to have a hearing before the Central Valley Water Board within 90 days, as provided in the Water Code. If the discharger waives this right (without waiving the right to have a hearing at all), the Prosecution Team may be in a better position to respond to your concerns.

Sincerely,

Alex P. Mayer
Staff Counsel, Central Valley Regional Water Quality Control Board

>>> Jeffory Scharff <jscharff@scharff.us> 4/11/2011 3:21 PM >>>

I was encouraged by your colleague on the Prosecution Team to contact your office with regard to the pending ACL issued to Winemucca Trading Co.

My principal point of contact, Mike Sommers is as noted below
also an accountant with a number of private clients. In

addition, he serves as the CFO to a Florida based aviation support company and spends weeks at a time on the east coast. He previously advised me of his limited availability after the tax season. As such I am not in a position to timely respond to the request for documents.

Could we find a time to discuss the matter. Mr. Palupa is obviously aware of the issue but as I understand it there need to be clear lines of demarcation on a going forward basis.

Thank you for your consideration of the matter
I will await your reply.

Jeffery J. Scharff, Esq.
SCHARFF, BRADY & VINDING
400 Capitol Mall, Suite 2640
Sacramento, CA 95814
Telephone: 916/446-3400
Facsimile: 916/446-7159
e-mail: jscharff@scharff.us
www.sbv-law.com

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----- Forwarded Message

From: Jeffery Scharff <jscharff@scharff.us>
Date: Mon, 11 Apr 2011 14:39:26 -0700
To: Patrick Pulupa <PPulupa@waterboards.ca.gov>
Cc: Karen Traugh <ktraugh@scharff.us>
Conversation: Winemucca ACL
Subject: Winemucca ACL

Patrick:

In advance of tomorrows call I offer the following for your consideration.

While disappointed to receive the proposed complaint, I understand but had been lead to believe that staff was instead preparing a new CAO that would encompass the concepts set forth in our last meeting as prepared conceptually by Vestra as to a phased approach to compliance.

Obviously, that would be the preferred course of action, and I am requesting reconsideration of the proposed ACL.

Further, there are we believe questions of subject matter jurisdiction as

to the Board's standing to pursue the matter that should be discussed.

Last, as a practical matter, in order to respond to your administrative subpoena it will require the assistance of Mr. Sommers. In that he is an accountant, he has previously advised me that he is unavailable until April 18 under any circumstances and much of the information that the Board has requested is uniquely and solely within his possession, custody and control.

In addition, after you and Karen set up our conference call I got dragged into a request for an urgent meeting. The only time that worked was 10 am meeting. Would it be possible to roll back the time of our call to 11:30?

I checked to see if I could start our meeting with the consultant earlier but they have someone ahead of us.

Thank you,

Jeffory J. Scharff, Esq.
SCHARFF, BRADY & VINDING
400 Capitol Mall, Suite 2640
Sacramento, CA 95814
Telephone: 916/446-3400
Facsimile: 916/446-7159
e-mail: jscharff@scharff.us
www.sbv-law.com

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----- End of Forwarded Message

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

REISSUED ACL COMPLAINT R5-2008-0518-R

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
IN THE MATTER OF

WINEMUCCA TRADING COMPANY LIMITED

PROSECUTION'S WITNESS LIST

The following is a list of each witness that the Central Valley Water Board's Prosecution Team intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. Though the Board's Prosecution Team does not seek to qualify any of the witnesses as expert witnesses for the purposes of eliciting expert testimony, general qualifications of the witnesses are provided as well.

Mr. Robert Crandall

Assistant Executive Officer, Redding Office

Central Valley Regional Water Quality Control Board

Over 35 years of experience in water quality, including positions as Supervising Scientist in DTSC's Permitting, Site Cleanup, and Planning/Environmental Analysis programs.

Testimony: Will testify regarding Board Policies affecting issuance of the Administrative Civil Liability Complaint, rationale for issuance.

Expected time required: 5-10 min

Mr. Clint Snyder

Senior Engineering Geologist, Chief of Groundwater Unit

Central Valley Regional Water Quality Control Board

Professional Geologist, Registered in CA and OR

9 years experience as project manager at land disposal sites

Testimony: Will testify regarding findings in proposed ACL Order, Site conditions, Site history

Expected time required: 10-30 min

Mr. Dale Stultz

Environmental Scientist

Central Valley Regional Water Quality Control Board

Registered Environmental Health Specialist, Hazardous Materials Specialist Technician

21 years experience land disposal and solid waste management

Testimony: Will testify regarding findings in proposed ACL Order, Site conditions, Site history

Expected time required: 10-30 min

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

REISSUED ACL COMPLAINT R5-2008-0518-R

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
IN THE MATTER OF

WINEMUCCA TRADING COMPANY LIMITED

PROSECUTION'S EVIDENCE LIST

The following is a list of all evidence, other than witness testimony, that the Central Valley Water Board's Prosecution Team would like the Central Valley Water Board to consider. These documents are already in the public files of the Central Valley Water Board, and are submitted by reference. The Central Valley Water Board's Prosecution Team is converting these documents to electronic format, and will provide these copies to the Board's Advisory Team by the revised 5 July 2011 deadline.

1. 20 May 2004, Winemucca Trading Company, Record of Sale.
2. 7 October 2004, Mike Sommers, *Certified Articles of Association of Winnemucca Trading Company, Ltd.*
3. 29 October 2004, Central Valley Water Board, *Cleanup and Abatement Order R5-2004-0717 to Winemucca Trading Company Limited, Inc.*
4. 23 November 2004, Discharger, letter
5. 27 January 2005, VESTRA Resources, *Update and Request, Winemucca Trading Company, Former Shasta Pulp and Paper Mill*
6. 27 January 2005, VESTRA Resources, *Water Management Plan, Winemucca Trading Company, Former Shasta Pulp and Paper Mill, Cleanup and Abatement Order No. R5-2004-0717*
7. 28 January 2005, VESTRA Resources, *Stormwater Pollution Prevention Plan, Winemucca Trading Company, Former Shasta Pulp and Paper Mill*
8. 7 March 2005, VESTRA Resources, *Sludge Characterization, Winemucca Trading Company, Former Shasta Pulp and Paper Mill*
9. 22 March 2005, Katie Bowman, Central Valley Water Board, Site Inspection
10. 6 April 2005, Central Valley Water Board, *Request for Work Plan and Technical Report, Cleanup and Abatement Order No. R5-2004-0717, Winemucca Trading Company Limited, Inc., Former Shasta Paper Company Facilities and Properties: Shasta Pulp and Paper Mill Wastewater Treatment Lagoons, Shasta County*
11. 20 May 2005, VESTRA Resources, *Treatment Lagoon and Clarifier Sediment Sampling Results, Winemucca Trading Company, Cleanup and Abatement Order No. R5-2004-0717*
12. 24 May 2005, VESTRA Resources, *Status Letter and Request for Disposal, Winemucca Trading Company, Cleanup and Abatement Order R5-2004-0717*

13. 24 June 2005, Central Valley Water Board, *Request for Closure Work Plan, Cleanup and Abatement Order No. R5-2004-0717, Winemucca Trading Company Limited, Inc., Former Shasta Paper Company Facilities and Properties: Shasta Pulp and Paper Mill Wastewater Treatment Lagoons, Shasta County, Site ID 2050189*
14. 31 August 2005, VESTRA Resources, *Closure Work Plan Extension Request*
15. 16 January 2006, VESTRA Resources, *October 28, 2005 Meeting Summary, Former Simpson Ponds*
16. 16 May 2006, VESTRA Resources, *Amended Surface and Groundwater Evaluation Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California*
17. 22 August 2006, VESTRA Resources, *Work Plan, Treatment Lagoon Sediment Sampling, Former Shasta Paper Mill.*
18. 5 October 2006, Central Valley Water Board, *Order to Submit Information Pursuant to California Water Code Section 13267, Winemucca Trading Company, Inc., Former Shasta Paper Company Facilities and Properties Including the Shasta Pulp and Paper Mill Wastewater Treatment Lagoons, Shasta County.*
19. 10 October 2006, VESTRA Resources, *Feasibility Study, Wastewater Treatment Facility, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California*
20. 12 October 2006, Central Valley Water Board, *Order to Submit Information Pursuant to California Water Code Section 13267, Winemucca Trading Company Limited, Inc., Former Shasta Paper Company Facilities and Properties Including the Shasta Pulp and Paper Mill Wastewater Treatment Lagoons, Shasta County*
21. 18 October 2006, VESTRA Resources, *Addendum, Feasibility Study Closure Attachment, Winemucca Trading Company*
22. 18 October 2006, Mike Sommers, FAX to Mey Bunte, Central Valley Water Board
23. 30 October 2006, Memo, Mey Bunte, Central Valley Water Board, *Cortez Fishiers/Winemucca Trading Company (Former Shasta Paper Company), to Steve Baumgartner, Department of Fish and Game*
24. 17 November 2006, , Central Valley Water Board, *Order to Submit Information Pursuant to California Water Code Section 13267, Winemucca Trading Company Limited, Inc., Former Shasta Paper Company Facilities and Properties Including the Shasta Pulp and Paper Mill Wastewater Treatment Lagoons, Shasta County*
25. 8 December 2006, VESTRA Resources, *Implementation Schedule for Closure, Alternative 3, Consolidate and Cap, Winemucca Trading Company*
26. 21 December 2006, Discharger, letter
27. 11 January 2007, Memo to File, *Winemucca Trading Company, Limited*
28. 5 February 2007, Dan Fehr, Department of Fish and Game, letter to Mike Sommers
29. 19 March 2007, Use Permit Application #07-05

30. 28 January 2008, Shasta County Department of Resource Management, *Request for Public Comment regarding Application of Use Permit No. 07-001, Winemucca Trading Company, LTD.*
31. 7 February 2008, Central Valley Water Board, *Comments, Use Permit 07-001, Winemucca Trading, CO, LTD, Shasta County.*
32. 14 March 2008, VESTRA Resources, *2008 Annual Monitoring Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717*
33. 21 March 2008, Central Valley Water Board, *Administrative Civil Liability Compliant No. R5-2008-0518, Winemucca Trading Company Limited, Inc., Shasta County*
34. 8 April 2008, "Sacramento Bee," article
35. 8 April 2008, "Redding Record Searchlight," article
36. 15 April 2008, VESTRA Resources, *Tank Inventory, Former Shasta Pulp and Paper Mill, Anderson, California.*
37. 17 April 2008, Jeff Scharff, transmittal letter to Jim Pedri (Board), and enclosures:
38. 15 April 2008, *Tank Inventory, Former Shasta Pulp and Paper Mill, Anderson, California.* VESTRA Resources
39. 16 April 2008, *Clarifiers, Holding Basins, and Wastewater Treatment Lagoons Characterization and Volume Estimates, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.* VESTRA Resources
40. 18 April 2008, Jeff Scharff, letter to Jim Pedri, Central Valley Water Board
41. 28 April 2008, VESTRA Resources, *Revised Feasibility Study, Remedial Alternatives for Clarifiers, Holding Basins, and Wastewater Treatment Lagoons, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717*
42. 13 May 2008, Jim Pedri, Central Valley Water Board, *Request for Waste Characterization Work Plan, Aboveground Tanks and Containment Structures, Winemucca Trading Company Limited, Inc., SCP #2050189, Shasta County*
43. 14 May 2008, Jim Pedri, Central Valley Water Board, *Request for Clarifier and Holding Basin Cleanup Plan, Winemucca Trading Company Limited, Inc., SCP #2050189, Shasta County*
44. 20 May 2008, Mark Wetters, Scharff, Brady & Vinding, letter to Jim Pedri, Central Valley Water Board
45. 2 June 2008, VESTRA Resources, *Work Plan, Characterization and Disposal of Potentially Hazardous Waste Contained in Aboveground Storage Tanks, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717*
46. 4 June 2008, Jim Pedri, Central Valley Water Board, *Work Plan, Characterization and Disposal of Potentially Hazardous Waste Contained in Aboveground Storage Tanks, SCP #2050189, Winemucca Trading Company Limited, Inc., Shasta County*
47. 16 June 2008, VESTRA Resources, *Clean Closure Work Plan for Clarifiers and Holding Basins, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717*

48. 20 June 2008, Ben's Truck and Equipment, Inc., *Notice of Intent to Remove Black Liquor From Aboveground Storage Tank ID 31*
49. 26 June 2008, Jim Pedri, Central Valley Water Board, *Conditional Approval, Clean Closure Work Plan for Clarifiers and Holding Basins, Winemucca Trading Company Limited, Inc., Shasta County, SCP #2050189*
50. 27 June 2008, Daryl Johnson, Winemucca, letter to Central Valley Water Board
51. 30 June 2008, Ben's Truck and Equipment, letter to Central Valley Water Board
52. 2 July 2008, Shasta County, letter to Winemucca regarding Use Permit Application 07-001
53. 21 July 2008, Daryl Johnson, progress report to Central Valley Water Board
54. 4 August 2008, Daryl Johnson, progress report to Central Valley Water Board
55. 7 August 2008, Daryl Johnson, progress report to Central Valley Water Board
56. 11 August 2008, Daryl Johnson, progress report to Central Valley Water Board
57. 14 August 2008, Daryl Johnson, progress report to Central Valley Water Board
58. 6 August to 14 August 2008, E-mails between VESTRA and Mike Sommers
59. 14 August 2008, E-mail from Karen Clementsen to Mike Sommers
60. 19 August 2008, Daryl Johnson, progress report to Central Valley Water Board
61. 21 August 2008, Daryl Johnson, progress report to Central Valley Water Board
62. 26 August 2008, Karen Clementsen, Central Valley Water Board, *Status Update, Winemucca Trading Company, Former Shasta Paper Company Facilities and Properties, SCP #2050189, Memo to Jim Pedri*
63. 27 August 2008, Daryl Johnson, progress report to Central Valley Water Board
64. 28 August 2008, Central Valley Water Board, *Notice of Violation, Failure to Submit Interim Report for Aboveground Tank Waste Removal Activities and Failure to Comply with Clean-Closure Work Plan for Holding Basins and Clarifiers, Winemucca Trading Company Limited, Inc., Shasta County, SCP #2050189*
65. 5 September 2008, Daryl Johnson, progress report to Central Valley Water Board
66. 11 September 2008, Daryl Johnson, progress report to Central Valley Water Board
67. 4 September to 11 September 2008, E-mails between Waste Management and Dale Stultz, Central Valley Water Board
68. 13 and 14 September 2008, newspaper articles
69. 28 October 2008, VESTRA Resources, *Generators Nonhazardous Waste Profile Sheet, Winemucca Trading Company, to Waste Management*

70. 4 November 2008, Central Valley Water Board, *Notice of Violation, Failure to Remove Aboveground Tank and Clarifier/Holding Basin Wastes, Winemucca Trading Company Limited, Inc., Former Shasta Pulp and Paper Mill, Shasta County, SCP #2050189, CAO No. R5-2004-0717.*
71. 12 November 2008, E-mails between VESTRA Resources, Waste Management, and Central Valley Water Board staff
72. 17 November 2008, Jim Pedri, Central Valley Water Board *Winemucca Request for Disposal of Nonhazardous Solid Waste at Anderson Class III Landfill, Shasta County.*
73. 17 November 2008, Jeff Scharff, letter to Central Valley Water Board
74. 18 November 2008, Jim Pedri, Central Valley Water Board *Approval to Remove Black Liquor Waste, Winemucca Trading Company Limited, Inc., Former Shasta Pulp and Paper Mill, Shasta County, SCP #2050189.*
75. 18 November 2008, George Low, VESTRA Resources, E-mail to Karen Clementsen
76. 24 November 2008, Jeff Scharff, letter to Jim Pedri
77. 4 December 2008, Jeff Scharff, letter to Waste Management
78. 4 December 2008, Jim Pedri, Central Valley Water Board, *Regional Water Board Staff Report, Winemucca Trading Company Limited, Inc., Former Shasta Pulp and Paper Mill, Shasta County, SCP #2050189, CAO No. R5-2004-0717*
79. 12 December 2008, VESTRA Resources, *Black Liquor Removal (Tank No. 31) Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717*
80. 15 December 2008, Central Valley Water Board, *No Further Action Required, Black Liquor Tank No. 31, Winemucca Trading Company Limited, Inc., Former Shasta Pulp and Paper Mill, Shasta County, SCP #2050189.*
81. 16 December 2008, VESTRA Resources, *Holding Basin No. 5 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
82. 29 December 2008, VESTRA Resources, *Clarifier No. 1 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
83. 29 January 2009, George Low, VESTRA Resources E-mail to Jeff Scharff, copy to Karen Clementsen.
84. 25 March 2009, VESTRA Resources, *Holding Basin No. 1 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
85. 25 March 2009, VESTRA Resources, *Clarifier No. 2 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
86. 30 March 2009, VESTRA Resources, *2009 Annual Monitoring Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*

87. 10 July 2009, George Low, VESTRA Resources, E-mail Dale Stultz and Eric Rapport, Central Valley Water Board
88. 20 July 2009, VESTRA Resources, *Holding Basin No. 4 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
89. 8 September 2009 and 9 September 2009, E-mails between Dale Stultz and Jeff Scharff
90. 10 September 2009, VESTRA Resources, *Holding Basin No. 3 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
91. 17 September to 21 September 2009, E-mails between Dale Stultz and George Low
92. 12 October 2009, Dale Stultz, Central Valley Water Board, *Status Update on Winemucca Trading Company Limited, Inc., (Former Shasta Paper Company Facilities and Properties), Compliance with Cleanup and Abatement Order No. R5-2004-0717, Site Cleanup Program No. 2050189, memo to Jim Pedri*
93. 12 October 2009, Jim Pedri, Central Valley Water Board, *Notice of Violation, Failure to Comply with Terms of Cleanup and Abatement Order No. R5-2004-0717 and California Water Code Section 13267 Request for Information, Site Cleanup Program Case No. 2050189, Winemucca Trading Company Limited, Inc., Former Shasta Paper Company Properties, Anderson, Shasta County.*
94. 14 October 2009, Shasta County, *Summary of Inspections and Notice to Comply for Winemucca Trading Company, LTD. Located at 21091 Hawes Road, Anderson, California.*
95. 30 October 2009, Jeff Scharff, letter to Jim Pedri
96. 30 March 2010, VESTRA Resources, *2010 Annual Monitoring Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order No. R5-2004-0717.*
97. 20 April 2010, Dale Stultz, Central Valley Water Board, *Status Update Regarding Compliance with Cleanup and Abatement Order No. R5-2004-0717, Winemucca Trading Company Limited, Inc., (Former Shasta Paper Company Facilities and Properties), Anderson, Shasta County, Site Cleanup Program No. 2050189, memo to Robert Crandall*
98. 21 April 2010, Robert Crandall, Central Valley Water Board, *Request for Administrative Meeting at Central Valley Regional Water Quality Control Board – Redding Office, Winemucca Trading Company Limited, Inc., (Former Shasta Paper Company Properties), Anderson, Shasta County.*
99. 17 May to 19 May 2010, Emails between Patrick Pulupa and Dale Stultz
100. 15 July 2010, E-mail from Dale Stultz to Jeff Scharff
101. 20 July 2010, E-mail from Dale Stultz to Jeff Scharff
102. 23 July 2010, Jeff Scharff, *Response to NOV, letter to Robert Crandall*
103. 4 August 2010, Dale Stultz, E-mail to Angela Wilson
104. 9 August 2010, Jeff Scharff, letter to Angela Wilson

105. 16 August 2010, Jeff Scharff E-mail to Angela Wilson
106. 25 August 2010, Dale Stultz, E-mail to VESTRA Resources, Jeff Scharff, Angela Wilson, Patrick Pulupa, and Robert Crandall
107. 27 August 2010, George Low, VESTRA Resources, E-mail to Dale Stultz
108. 27 September 2010, Angela Wilson, E-mail to Jeff Scharff and Karen Traugh.
109. 11 October 2010, Jeff Scharff, E-mail to Central Valley Water Board
110. Undated, MSDS for White liquor from Simpson Paper Company dated 13 January 1987.
111. 23 January 2011, "Record Searchlight," *Contaminants Remain at Millsite*, article
112. 9 February 2011, Dale Stultz, Central Valley Water Board, *Site Cleanup Program Technical Memorandum, Winemucca Trading Company Inspection, SCP Case No. 2050189*, memo to Clint Snyder
113. 23 February 2011, VESTRA Resources, *Holding Basin No. 2 Completion Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order R5-2004-0717*.
114. 15 March 2011, VESTRA Resources, *2011 Annual Monitoring Report, Winemucca Trading Company, Former Shasta Paper Mill, Anderson, California, Cleanup and Abatement Order R5-2004-0717*.
115. 1 April 2011, Central Valley Water Board, Administrative Civil Liability Complaint R5-2008-0518-R.
116. 1 April 2011, Central Valley Water Board , Administrative Subpoena to Winemucca
117. 11 April 2011 through 14 April 2011, E-mails between Jeff Scharff, Patrick Pulupa, Karen Traugh, and Alex Mayer, staff council, Central Valley Water Board
118. 15 April 2011, Jeff Scharff, *Waiver of 90-Day Hearing Requirement for Administrative Civil Liability Complaint*